

**ASSEMBLY, No. 4522**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED AUGUST 13, 2020

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ANTHONY S. VERRELLI**

**District 15 (Hunterdon and Mercer)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Co-Sponsored by:**

**Assemblyman Caputo**

**SYNOPSIS**

Establishes process for individual to petition court for involuntary commitment of another person to treatment for substance use disorder.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/27/2020)**

1 AN ACT concerning involuntary commitment to substance use  
2 disorder treatment, supplementing chapter 4 of Title 30 of the  
3 Revised Statutes, and amending P.L.1991, c.270.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. (New section) As used in sections 2 through 16 of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill):

10 "Chief executive officer" means the person who is the chief  
11 administrative officer of a residential substance use disorders  
12 treatment facility.

13 "Clinical director" means a licensed physician who is designated  
14 by the chief executive officer to organize and supervise clinical  
15 services for a substance use disorder provided in a screening service  
16 or residential substance use disorders treatment facility.

17 "Commissioner" means the Commissioner of Human Services.

18 "County adjuster" means the person appointed pursuant to  
19 R.S.30:4-34.

20 "County counsel" means the chief legal officer or advisor of the  
21 governing body of a county.

22 "Court" means the Superior Court or a municipal court.

23 "Custody" means the right and responsibility to ensure the  
24 provision of care and supervision.

25 "Dangerous to others or property" means that by reason of a  
26 substance use disorder there is a substantial likelihood that the  
27 person will inflict serious bodily harm upon another person or cause  
28 serious property damage within the reasonably foreseeable future.  
29 This determination shall take into account a person's history, recent  
30 behavior, and any recent act, threat, or serious psychiatric  
31 deterioration.

32 "Dangerous to self" means that, by reason of a substance use  
33 disorder, the person has threatened or attempted suicide or serious  
34 bodily harm or has behaved in such a manner as to indicate that the  
35 person is unable to satisfy his need for nourishment, essential  
36 medical care, or shelter so that it is probable that substantial bodily  
37 injury, serious physical harm, or death will result within the  
38 reasonably foreseeable future; however, no person shall be deemed  
39 to be unable to satisfy his need for nourishment, essential medical  
40 care, or shelter if he is able to satisfy those needs with the  
41 supervision and assistance of others who are willing and available.  
42 This determination shall take into account a person's history, recent  
43 behavior, and any recent act, threat, or serious psychiatric  
44 deterioration.

45 "Department" means the Department of Human Services.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 "In need of involuntary commitment to treatment for a substance  
2 use disorder" means that an adult with a substance use disorder,  
3 whose substance use disorder causes the person to be dangerous to  
4 self or dangerous to others or property and who is unwilling to  
5 accept appropriate treatment voluntarily after it has been offered,  
6 needs inpatient care at a residential substance use disorders  
7 treatment facility because other services are not appropriate or  
8 available to meet the person's substance use disorder treatment  
9 needs.

10 "Petitioner" means a spouse, civil union partner, relative, friend,  
11 or guardian of an individual who submits to the court a petition for  
12 the involuntary commitment to treatment for a substance use  
13 disorder of the individual.

14 "Psychiatrist" means a physician who has completed the training  
15 requirements of the American Board of Psychiatry and Neurology.

16 "Reasonably foreseeable future" means a time frame that may be  
17 beyond the immediate or imminent, but not longer than a time  
18 frame as to which reasonably certain judgments about a person's  
19 likely behavior can be reached.

20 "Residential substance use disorders treatment facility" means a  
21 facility licensed by the department or Department of Health, as  
22 applicable, to provide an array of substance use disorder treatment  
23 and recovery services, including medical services on site, in a  
24 residential setting to individuals with a substance use disorder.

25 "Respondent" means an individual named in a petition who may  
26 be subject to involuntary commitment to treatment for a substance  
27 use disorder pursuant to P.L. , c. (C. ) (pending before the  
28 Legislature as this bill).

29 "Substance use disorder" means substance use disorder as  
30 defined in the most recent edition of the Diagnostic and Statistical  
31 Manual of Mental Disorders.

32 "Treatment team" means a group of persons that includes at least  
33 one clinical alcohol and drug counselor and one psychiatrist or  
34 physician, and that may additionally include a psychologist, social  
35 worker, nurse, and other appropriate service providers, which group  
36 provides services to a patient of a residential substance use  
37 disorders treatment facility.

38

39 2. (New section) a. A petitioner may initiate court  
40 proceedings for the involuntary commitment of an individual to  
41 treatment for a substance use disorder at a residential substance use  
42 disorders treatment facility by submitting to the court a petition  
43 setting forth:

44 (1) The petitioner's relationship to the respondent;

45 (2) The respondent's name, residence, and current location, if  
46 known;

47 (3) The name and residence of the respondent's parents, if living  
48 and known, or the respondent's legal guardian, if any and known;

1 (4) The name and residence of the respondent's spouse or civil  
2 union partner, if any and if known;

3 (5) The name and residence of the person having custody of the  
4 respondent, if any; or if no such person is known, the name and  
5 residence of a close relative; or a statement that no such person is  
6 known; and

7 (6) The petitioner's belief, including the factual basis therefor,  
8 that the respondent is in need of involuntary commitment to  
9 treatment for a substance use disorder.

10 b. A petition filed pursuant to this section shall be accompanied  
11 by a guarantee, signed by the petitioner or the spouse, civil union  
12 partner, relative, friend, or guardian of the respondent, as  
13 appropriate, obligating that petitioner or other individual, as  
14 appropriate, to pay all costs for treatment of the respondent for  
15 treatment for a substance use disorder that is ordered by the court.

16  
17 3. (New section) a. Upon receipt of a petition submitted  
18 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill), the court shall examine the petitioner under  
20 oath as to the contents of the petition.

21 b. If, after reviewing the allegations contained in the petition  
22 and examining the petitioner under oath, it appears to the court that  
23 there is probable cause to believe the respondent is in need of  
24 involuntary commitment to treatment for a substance use disorder,  
25 the court shall:

26 (1) set a date for a hearing within 14 days to determine if there  
27 is probable cause to believe the respondent is in need of involuntary  
28 commitment to treatment for a substance use disorder;

29 (2) at least 10 days prior to the hearing, notify the respondent,  
30 the respondent's legal guardian, if any and if known, and the  
31 spouse, civil union partner, parents, or nearest relative or friend of  
32 the respondent of the allegations and contents of the petition, the  
33 date and purpose of the hearing, and the name, address, and  
34 telephone number of the attorney who has been appointed to  
35 represent the respondent; and

36 (3) cause the respondent to be examined no later than 24 hours  
37 before the hearing date by two physicians, at least one of whom is a  
38 psychiatrist, who are not relatives of the respondent by blood or  
39 marriage. The physicians shall certify their findings to the court  
40 within 24 hours of their examinations.

41 c. If, upon completion of the hearing, the court finds that the  
42 respondent is in need of involuntary commitment to treatment for a  
43 substance use disorder, the court shall order such treatment pending  
44 the final hearing pursuant to section 10 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill). Failure of a respondent  
46 to undergo treatment ordered pursuant to this section may place the  
47 respondent in contempt of court.

1       d. If, at any time after the petition is filed, the court finds that  
2 there is no probable cause to continue treatment or the petitioner  
3 withdraws the petition, the proceedings against the respondent shall  
4 be dismissed.

5  
6       4. (New section) a. Following an examination by a  
7 physician and a certification by that physician that the respondent is  
8 in need of involuntary commitment to treatment for a substance use  
9 disorder, the court may order the respondent to be hospitalized for a  
10 period not to exceed 72 hours if the court finds, by clear and  
11 convincing evidence, that the respondent presents an imminent  
12 threat of danger to self, others, or property as a result of the  
13 respondent's substance use disorder.

14       b. A person who has been admitted to a hospital pursuant to  
15 subsection a. of this section shall be released from the hospital  
16 within 72 hours of admittance.

17       c. A respondent hospitalized under this section shall not be  
18 held in jail pending transportation to a hospital or examination  
19 unless the court has previously found the respondent to be in  
20 contempt of court for failure to undergo treatment or failure to  
21 appear at the examination ordered pursuant to section 3 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill).

23  
24       5. (New section) When a court is authorized to issue an order  
25 that the respondent be transported to a hospital, or if the respondent  
26 fails to attend an examination scheduled before the hearing pursuant  
27 to section 2 of this act, the court may issue a summons. A  
28 summons issued under this section shall be directed to the  
29 respondent and shall command the respondent to appear at a time  
30 and place specified in the summons. If a respondent who has been  
31 summoned fails to appear at the hospital or examination, the court  
32 may order a State or local law enforcement officer to transport the  
33 respondent to a hospital or psychiatric hospital designated by the  
34 commissioner for treatment pursuant to section 6 of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill).  
36 The State or local law enforcement officer may authorize a  
37 transportation provider designated by the commissioner pursuant to  
38 subsection c. of section 6 of P.L. , c. (C. ) (pending before  
39 the Legislature as this bill) to transport the respondent to the  
40 hospital or psychiatric facility. The transportation costs shall be  
41 included within the costs of treatment to be paid by the petitioner  
42 pursuant to subsection b. of section 2 of P.L. , c. (C. )  
43 (pending before the Legislature as this bill).

44  
45       6. (New section) a. The commissioner shall designate one or  
46 more residential substance use disorders treatment facilities in each  
47 county or multi-county region in the State as designated residential  
48 substance use disorders treatment facilities for individuals

1 involuntarily committed to treatment pursuant to this act. The  
2 commissioner shall so designate a facility only with the approval of  
3 the facility's governing body.

4 b. The commissioner shall designate one or more hospitals or  
5 psychiatric hospitals in each county or multi-county region in the  
6 State as designated hospitals for the short-term commitment of an  
7 individual hospitalized pursuant to section 4 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill).

9 c. The commissioner may designate one or more emergency  
10 medical or nonemergency medical transportation providers in each  
11 county or region as designated transportation providers.

12  
13 7. (New section) a. A law enforcement officer or the  
14 officer's employer, acting in good faith pursuant to  
15 P.L. , c. (C. ) (pending before the Legislature as this bill),  
16 who takes reasonable steps to assess, take custody of, detain, or  
17 transport an individual for the purposes of examination or treatment  
18 of a substance use disorder ordered pursuant to  
19 P.L. , c. (C. ) (pending before the Legislature as this bill) is  
20 immune from civil and criminal liability.

21 b. An emergency services or medical transport person, or their  
22 respective employer, acting in good faith pursuant to  
23 P.L. , c. (C. ) (pending before the Legislature as this bill)  
24 and pursuant to the direction of a person designated in subsection a.  
25 of this section, who takes reasonable steps to take custody of,  
26 detain, or transport an individual for the purposes of assessment or  
27 treatment of a substance use disorder is immune from civil and  
28 criminal liability.

29 For the purposes of this subsection, "emergency services or  
30 medical transport person" means a member of a first aid,  
31 ambulance, or rescue squad or a fire department, whether paid or  
32 volunteer, auxiliary police officer, or paramedic.

33  
34 8. (New section) a. A residential substance use disorders  
35 treatment facility shall effectuate the following purposes and  
36 procedures:

37 (1) The chief executive officer of the residential substance use  
38 disorders treatment facility shall have custody of a person while that  
39 person is detained in the facility pursuant to P.L. , c. (C. )  
40 (pending before the Legislature as this bill) and shall notify:

41 (a) appropriate public or private agencies to arrange for the care  
42 of any dependents and to ensure the protection of the person's  
43 property; and

44 (b) appropriate facilities licensed by the department to provide  
45 substance use disorders treatment on an outpatient basis for the  
46 purposes of beginning discharge planning.

47 (2) If a person is admitted to a residential substance use  
48 disorders treatment facility, the chief executive officer of the

1 facility shall promptly notify the county adjuster of the admitting  
2 county that the person has been admitted to the facility.

3 (3) The facility is authorized to provide assessment, treatment,  
4 and recovery services, and shall provide discharge planning services  
5 as required pursuant to section 15 of P. c. (C. ) (pending  
6 before the Legislature as this bill).

7 (4) The facility is authorized to detain persons involuntarily  
8 committed to the facility.

9 b. A person shall not be involuntarily committed to treatment at  
10 a residential substance use disorders treatment facility unless the  
11 person is in need of involuntary commitment to treatment for a  
12 substance use disorder pursuant to P.L. , c. (C. ) (pending  
13 before the Legislature as this bill).

14

15 9. (New section) a. A patient admitted to a residential  
16 substance use disorders treatment facility, either on a voluntary or  
17 involuntary basis, shall have the following rights:

18 (1) The right to have examinations and services provided in the  
19 patient's primary means of communication, including, as soon as  
20 possible, with the aid of an interpreter if needed because the patient  
21 is of limited English-speaking ability or suffers from a speech or  
22 hearing impairment;

23 (2) The right to a verbal explanation of the reasons for  
24 admission to the facility, the availability of an attorney, and the  
25 rights provided in P.L. , c. (C. ) (pending before the  
26 Legislature as this bill); and

27 (3) The right to be represented by an attorney and, if  
28 unrepresented or unable to afford an attorney, the right to be  
29 provided with an attorney paid for by the appropriate government  
30 agency. An attorney representing a patient has the right to inspect  
31 and copy the patient's clinical chart.

32 b. The clinical director of the residential substance use  
33 disorders treatment facility, or the director's designee, shall ensure  
34 that a written statement of the rights provided in  
35 P.L. , c. C. ) (pending before the Legislature as this bill) is  
36 provided to patients at the time of admission, or as soon as possible  
37 thereafter, and to patients and their families upon request.

38

39 10. (New section) a. A patient who is involuntarily committed  
40 to treatment for a substance use disorder pursuant to  
41 P.L. , c. (C. ) (pending before the Legislature as this bill)  
42 shall receive a court hearing with respect to the issue of continued  
43 need for involuntary commitment within 20 days from initial  
44 commitment unless the patient has been administratively discharged  
45 pursuant to section 15 of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill).

47 b. The assigned county counsel shall be responsible for  
48 presenting the case for the patient's involuntary commitment to the

1 court, unless the county adjuster is licensed to practice law in this  
2 State, in which case the county adjuster shall present the case for  
3 the patient's involuntary commitment to the court.

4 c. A patient subject to involuntary commitment to treatment for  
5 a substance use disorder shall have counsel present at the hearing  
6 and shall not be permitted to appear at the hearing without counsel.

7  
8 11. (New section) a. At least 10 days prior to a court hearing,  
9 the county adjuster of the admitting county shall cause notice of the  
10 court hearing to be served upon the patient, the patient's guardian if  
11 any, the patient's next-of-kin, the patient's attorney, the chief  
12 executive officer or other individual who has custody of the patient,  
13 and any other individual specified by the court. The notice shall  
14 contain the date, time, and location of the court hearing. The  
15 patient and the patient's attorney shall also receive copies of the  
16 clinical certificates and supporting documents, the temporary court  
17 order, and a statement of the patient's rights at the court hearing.

18 b. A psychiatrist or physician who has conducted a personal  
19 examination of the patient as close to the court hearing date as  
20 possible, but in no event more than five calendar days prior to the  
21 court hearing, shall testify at the hearing to the clinical basis for the  
22 need for involuntary commitment to treatment for a substance use  
23 disorder pursuant to P.L. , c. (C. ) (pending before the  
24 Legislature as this bill). Any other witness with relevant  
25 information offered by the patient or the persons presenting the case  
26 for civil commitment, shall also be permitted to testify at the  
27 hearing.

28 c. The patient's next-of-kin may attend and testify at the court  
29 hearing if the court so determines.

30 d. The court shall transcribe the court hearing and arrange for  
31 the payment of expenses related thereto in the same manner as for  
32 other court proceedings.

33  
34 12. (New section) A person subject to involuntary commitment  
35 to treatment for a substance use disorder pursuant to  
36 P.L. , c. (C. ) (pending before the Legislature as this bill)  
37 has the following rights at a court hearing and any subsequent  
38 review court hearing:

39 a. The right to be represented by counsel or, if indigent, by  
40 appointed counsel;

41 b. The right to be present at the court hearing, unless the court  
42 determines that because of the person's conduct at the court hearing  
43 the proceeding cannot reasonably continue while the person is  
44 present;

45 c. The right to present evidence;

46 d. The right to cross examine witnesses; and

47 e. The right to a hearing in camera.



1        13. (New section) a. (1) If the court finds by clear and  
2        convincing evidence that the patient needs continued involuntary  
3        commitment to treatment for a substance use disorder pursuant to  
4        P.L. , c. (C. ) (pending before the Legislature as this bill), it  
5        shall issue an order authorizing the involuntary commitment of the  
6        patient for a substance use disorder and shall schedule a subsequent  
7        court hearing in the event the patient is not administratively  
8        discharged pursuant to section 15 of P.L. , c. (C. ) (pending  
9        before the Legislature as this bill) prior thereto.

10       (2) If the court finds by clear and convincing evidence that the  
11       patient needs continued involuntary commitment to treatment for a  
12       substance use disorder pursuant to P.L. , c. (C. ) (pending  
13       before the Legislature as this bill) and has a co-occurring mental  
14       illness, it shall issue an order authorizing the involuntary  
15       commitment to treatment of the patient pursuant to P.L.1987, c.116  
16       (C.30:4-27.1 et seq.) and shall schedule a subsequent court hearing  
17       in the event the patient is not administratively discharged pursuant  
18       to section 15 of P.L. , c. (C. ) (pending before the  
19       Legislature as this bill) prior thereto.

20       b. If the court finds that the patient does not need continued  
21       involuntary commitment to treatment for a substance use disorder,  
22       the court shall so order. A patient shall be discharged by the  
23       residential substance use disorders treatment facility within 48  
24       hours of the court's verbal order or by the end of the next working  
25       day, whichever is longer, with a discharge plan prepared pursuant to  
26       section 16 of P.L. , c. (C. ) (pending before the Legislature  
27       as this bill).

28       c. (1) The court may discharge the patient subject to  
29       conditions if the court finds that the person does not need  
30       involuntary or continued involuntary commitment to treatment for a  
31       substance use disorder and:

32       (a) the patient's history indicates a high risk of repeated  
33       admissions to residential substance abuse treatment facilities  
34       because of the patient's failure to comply with discharge plans; or

35       (b) there is substantial likelihood that by reason of a substance  
36       use disorder the patient will be dangerous to self, others, or property  
37       if the patient does not receive other appropriate and available  
38       services that render involuntary commitment to treatment  
39       unnecessary.

40       (2) Conditions imposed pursuant to this section shall include  
41       those recommended by the residential substance use disorders  
42       treatment facility or a facility that is licensed by the department to  
43       provide substance use disorder treatment on an outpatient basis, as  
44       applicable, and shall be developed with the participation of the  
45       patient. Conditions imposed on the patient shall be specific, and  
46       their duration shall not exceed 90 days.

47       (3) The designated staff person of a facility that is licensed by  
48       the department to provide substance use disorder treatment on an

1 outpatient basis shall notify the court if the patient fails to meet the  
2 conditions of the discharge plan, and the court shall issue an order  
3 directing that the person be taken to a screening service for an  
4 assessment. The court shall determine, in conjunction with the  
5 findings of a screening service, if the patient needs to be readmitted  
6 to a residential substance use disorders treatment facility and, if so,  
7 the patient shall be returned to the facility. The court shall hold a  
8 hearing within 20 days of the day the patient was returned to the  
9 facility to determine if the order of conditional discharge should be  
10 vacated.

11  
12 14. (New section) a. A patient committed pursuant to a court  
13 order, who is not administratively discharged pursuant to section 15  
14 of P.L. , c. (C. ) (pending before the Legislature as this  
15 bill), shall be afforded periodic court review hearings of the need  
16 for involuntary commitment to treatment for a substance use  
17 disorder pursuant to P.L. , c. (C. ) (pending before the  
18 Legislature as this bill). Each review hearing shall be conducted in  
19 the manner provided in section 13 of P.L. , c. (C. ) (pending  
20 before the Legislature as this bill). If the court determines at a  
21 review hearing that involuntary commitment to treatment for a  
22 substance use disorder shall be continued, it shall execute a new  
23 order.

24 The court shall conduct the first review hearing 30 days from the  
25 date of the first hearing and every 30 days thereafter. The court may  
26 schedule additional review hearings, but, except in extraordinary  
27 circumstances, such hearings shall not be scheduled more often than  
28 once every 21 days.

29 b. At a court review hearing, when the advanced age of the  
30 patient or another factor by reason of a substance use disorder  
31 renders it appropriate, and when it would be impractical to obtain  
32 the testimony of a psychiatrist as required in section 11 of  
33 P.L. , c. (C. ) (pending before the Legislature as this bill),  
34 the court may permit a physician on the patient's treatment team  
35 who has personally conducted an examination of the patient as close  
36 to the hearing date as possible, but in no event more than five days  
37 prior to the hearing date, to testify at the hearing as to the clinical  
38 basis for the need for involuntary commitment to treatment for a  
39 substance use disorder.

40  
41 15. (New section) The treatment team at a residential substance  
42 use disorders treatment facility shall administratively discharge a  
43 patient from involuntary commitment status if the treatment team  
44 determines that the patient no longer needs involuntary commitment  
45 to treatment for a substance use disorder. If a discharge plan has  
46 not been developed pursuant to section 16 of P.L. , c. (C. )  
47 (pending before the Legislature as this bill), it shall be developed  
48 forthwith.

1       16. (New section) a. A person discharged either by the court or  
2 administratively from a residential substance use disorders  
3 treatment facility shall have a discharge plan developed by the  
4 treatment team at the facility pursuant to this section. The  
5 treatment team shall give the patient an opportunity to participate in  
6 the formulation of the discharge plan.

7       b. A facility that is licensed by the department to provide  
8 substance use disorder treatment on an outpatient basis, and which  
9 is designated by the department to participate in formulating the  
10 discharge plan, shall participate in formulating the plan. The  
11 residential substance use disorders treatment facility shall advise  
12 the designated facility which provides services on an outpatient  
13 basis of the date of the patient's discharge, and the designated  
14 facility shall provide follow-up care to the patient pursuant to  
15 regulations adopted by the commissioner.

16       c. This section shall not preclude discharging a patient to an  
17 appropriate professional.

18       d. The residential substance use disorders treatment facility  
19 shall give notice of the discharge to the county adjuster of the  
20 county in which the patient has legal settlement.

21  
22       17. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to  
23 read as follows:

24       1. a. Any person who is licensed in the State of New Jersey to  
25 practice psychology, psychiatry, medicine, nursing, clinical social  
26 work, or marriage and family therapy, whether or not compensation  
27 is received or expected, is immune from any civil liability for a  
28 patient's violent act against another person or against himself unless  
29 the practitioner has incurred a duty to warn and protect the potential  
30 victim as set forth in subsection b. of this section and fails to  
31 discharge that duty as set forth in subsection c. of this section.

32       b. A duty to warn and protect is incurred when the following  
33 conditions exist:

34       (1) The patient has communicated to that practitioner a threat of  
35 imminent, serious physical violence against a readily identifiable  
36 individual or against himself and the circumstances are such that a  
37 reasonable professional in the practitioner's area of expertise would  
38 believe the patient intended to carry out the threat; or

39       (2) The circumstances are such that a reasonable professional in  
40 the practitioner's area of expertise would believe the patient  
41 intended to carry out an act of imminent, serious physical violence  
42 against a readily identifiable individual or against himself.

43       A duty to warn and protect shall not be incurred when a qualified  
44 terminally ill patient requests medication that the patient may  
45 choose to self-administer in accordance with the provisions of  
46 P.L.2019, c.59 (C.26:16-1 et al.).

47       c. A licensed practitioner of psychology, psychiatry, medicine,  
48 nursing, clinical social work, or marriage and family therapy shall

1 discharge the duty to warn and protect as set forth in subsection b.  
2 of this section by doing one or more of the following:

3 (1) Arranging for the patient to be admitted voluntarily to a  
4 psychiatric unit of a general hospital, a short-term care facility, a  
5 special psychiatric hospital, or a psychiatric facility, under the  
6 provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

7 (2) Initiating procedures for involuntary commitment to  
8 treatment of the patient to an outpatient treatment provider, a short-  
9 term care facility, a special psychiatric hospital, or a psychiatric  
10 facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et  
11 seq.), or to a residential substance use disorders treatment facility  
12 under the provisions of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill);

14 (3) Advising a local law enforcement authority of the patient's  
15 threat and the identity of the intended victim;

16 (4) Warning the intended victim of the threat, or, in the case of  
17 an intended victim who is under the age of 18, warning the parent  
18 or guardian of the intended victim; or

19 (5) If the patient is under the age of 18 and threatens to commit  
20 suicide or bodily injury upon himself, warning the parent or  
21 guardian of the patient.

22 d. A practitioner who is licensed in the State of New Jersey to  
23 practice psychology, psychiatry, medicine, nursing, clinical social  
24 work, or marriage and family therapy who, in complying with  
25 subsection c. of this section, discloses a privileged communication,  
26 is immune from civil liability in regard to that disclosure.

27 e. In addition to complying with subsection c. of this section, a  
28 licensed practitioner shall notify the chief law enforcement officer  
29 of the municipality in which the patient resides or the  
30 Superintendent of State Police if the patient resides in a  
31 municipality that does not have a full-time police department that a  
32 duty to warn and protect has been incurred with respect to the  
33 patient and shall provide to the chief law enforcement officer or  
34 superintendent, as appropriate, the patient's name and other non-  
35 clinical identifying information. The chief law enforcement officer  
36 or superintendent, as appropriate, shall use that information to  
37 ascertain whether the patient has been issued a firearms purchaser  
38 identification card, permit to purchase a handgun, or any other  
39 permit or license authorizing possession of a firearm.

40 If the patient has been issued a firearms purchaser identification  
41 card, permit to purchase a handgun, or any other permit or license  
42 authorizing possession of a firearm, or if there is information  
43 indicating that the patient otherwise may have access to a firearm,  
44 the information provided may be used in determining whether the  
45 patient has become subject to any of the disabilities set forth in  
46 subsection c. of N.J.S.2C:58-3. If the chief law enforcement officer  
47 or superintendent, as appropriate, determines that the patient has  
48 become subject to any of the disabilities set forth in subsection c. of

1 N.J.S.2C:58-3, any identification card or permit issued to the  
2 patient shall be void and subject to revocation by the Superior Court  
3 in accordance with the procedure established in subsection f. of  
4 N.J.S.2C:58-3.

5 If the court determines that the patient is subject to any of the  
6 disabilities set forth in subsection c. of N.J.S.2C:58-3 and revokes  
7 the patient's firearms purchaser identification card in accordance  
8 with the procedure established in subsection f. of N.J.S.2C:58-3, the  
9 court may order the patient to surrender to the county prosecutor  
10 any firearm owned by or accessible to the patient and order the  
11 prosecutor to dispose of the firearms. When the court orders the  
12 county prosecutor to dispose of the firearms, the prosecutor shall  
13 dispose of the firearms as provided in N.J.S.2C:64-6.

14 If the court, upon motion of the prosecutor, finds probable cause  
15 that the patient has failed to surrender any firearm, card, or permit,  
16 the court may order a search for and removal of these items at any  
17 location where the judge has reasonable cause to believe these items  
18 are located. The judge shall state with specificity the reasons and  
19 the scope of the search and seizure authorized by the order.

20 A firearm surrendered or seized pursuant to this subsection  
21 which is not legally owned by the patient shall be immediately  
22 returned to the legal owner of the firearm if the legal owner submits  
23 a written request to the prosecutor attesting that the patient does not  
24 have access to the firearm.

25 A law enforcement officer or agency shall not be held liable in  
26 any civil action brought by any person for failing to learn of, locate,  
27 or seize a firearm pursuant to this subsection.

28 A patient who is determined to be subject to any of the  
29 disabilities established in paragraph (3) of subsection c. of  
30 N.J.S.2C:58-3 and submits a certificate of a medical doctor or  
31 psychiatrist licensed in New Jersey, or other satisfactory proof in  
32 accordance with that paragraph shall be entitled to the reinstatement  
33 of any firearms purchaser identification cards, permits to purchase a  
34 handgun, and any other permit or license authorizing possession of  
35 a firearm seized pursuant to this subsection.

36 (cf: P.L.2019, c.59, s.27)

37

38 18. The Commissioner of Human Services, pursuant to the  
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
40 seq.), shall adopt rules and regulation necessary to effectuate the  
41 purposes of this act.

42

43 19. This act shall take effect one year after the date of  
44 enactment, but the Commissioner of Human Services may take such  
45 anticipatory administrative action in advance thereof as shall be  
46 necessary for the implementation of the act.

## STATEMENT

This bill provides for a "petitioner" who is the spouse, civil union partner, relative, friend, or guardian of an individual to submit to the court a petition for the involuntary commitment of the individual to treatment for a substance use disorder. The petition is to be accompanied by a guarantee obligating the spouse, civil union partner, relative, friend, or guardian of the individual to pay all costs for treatment of the individual that is ordered by the court.

If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the individual is in need of involuntary commitment to treatment for a substance use disorder, the court is to: set a date for a hearing within 14 days to determine probable cause; provide certain notifications; and have the respondent examined no later than 24 hours before the hearing date. The examinations are to be conducted by two physicians, at least one of whom is to be a psychiatrist, and those physicians are to certify the findings of the examinations to the court.

If, upon completion of the hearing, the court finds the respondent is in need of involuntary commitment to treatment for a substance use disorder, the court is to order treatment for the respondent, pending a final hearing, as discussed below. Failure to undergo treatment may place the respondent in contempt of court.

Additionally, following the physician examinations certifying the respondent to be in need of the involuntary commitment, the court may order the respondent hospitalized for a period not to exceed 72 hours, if the court finds, by clear and convincing evidence, that the respondent presents an imminent threat of danger to self, others, or property as a result of a substance use disorder.

The bill provides certain patient rights which include: the right to have examinations provided in the primary means of communication of the person or with the aid of an interpreter; the right to receive verbal explanations of the reason for admission; and the right to be represented by an attorney.

Within 20 days of the patient's initial commitment, the patient is to receive a final court hearing, which is to be transcribed. At this hearing, if the court finds by clear and convincing evidence that the patient needs continued involuntary commitment to treatment for a substance use disorder, it is to issue an order authorizing the commitment. If the court finds by clear and convincing evidence that the patient needs continued involuntary commitment to treatment for a substance use disorder and has a co-occurring mental illness, the court is to issue an order authorizing the involuntary commitment of the patient pursuant to the law governing civil commitment for mental illness. If the court finds the patient does not need continued involuntary commitment, the court is to issue an order to that effect, and the patient is to be

1 discharged, with a discharge plan, within 48 hours of the court's  
2 verbal order or by the end of the next working day.

3 At least 10 days prior to a hearing, notice is to be provided to the  
4 patient, the patient's guardian if any, the patient's next-of-kin, the  
5 patient's attorney, the chief executive officer or other individual  
6 who has custody of the patient, and any other individual specified  
7 by the court.

8 A committed patient is to be provided with periodic court  
9 reviews of the need for involuntary commitment. The bill also  
10 provides for administrative and conditional discharges from  
11 commitment. A discharge plan is to be developed, and the patient  
12 is to have the opportunity to participate in its development. A  
13 facility licensed to provide substance use disorder treatment on an  
14 outpatient basis is also designated to participate in developing the  
15 plan, and the designated facility is to provide follow-up care to the  
16 patient.